IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

APPEAL NO.151 OF 1999

IN

ARBITRATION PETITION NO.82 OF 1997

...

M/s.Hiralal Lilladhar ...Appellant
(Orig.Respondent)

v/s.

Smt.Ashalata S. Lahoti ...Respondent
(Orig.Petitioner)

...

Mr.Milind Wasudeo with Ms.Chaitra Rao i/b M & M Legal Venture for the Appellant.
Mr.S.S.Purohit i/b Purohit & Co. for the Respondent.

...

CORAM: D.K.DESHMUKH &
J.H.BHATIA, JJ.

DATED: 25TH JULY, 2007

P.C.:

1. This appeal is directed against the judgment and order of the learned single Judge dated 15th October, 1998 passed in Arbitration Petition No.82 of 1997.

2. It is common ground before us that by the award which was impugned before the learned single Judge, the arbitrator had held that applying provisions of the Limitation Act the claim made by the Respondent-claimant is barred by the law of limitation. The learned single Judge has held that because the arbitration is under the bye-laws of the Bombay Stock Exchange, it is a statutory arbitration and therefore, the provisions of the Limitation Act do not apply. The learned single Judge has, therefore, set aside the award made by the arbitrator and remanded the proceeding back for further inquiry. It is also common ground before us that now as a consequence of remand first inquiry that the arbitrator will have to make is whether there was any provision in bye-laws at the relevant time laying down period of limitation for making a claim for

arbitration. If so, whether the claim has been made within that period of limitation and if the arbitrator finds that the claim is made within limitation, thereafter they can make an inquiry on the merits of the claim.

3. The learned counsel appearing for both sides accept that they do not dispute the position in so far as the present case is concerned that the arbitration under the Bye-laws of the Bombay Stock Exchange is a statutory arbitration and that the provisions of the Indian Limitation Act do not apply to it.

4. The learned Counsel appearing for the Appellant submitted before us that it was not necessary for the learned single Judge to remand the proceedings back because according to him it is clear from the provisions of the Bye-laws, as they were in force at the relevant time, that the claim of the Respondent is barred by the Bye-laws.

5. We have heard the learned appearing for both sides. In our opinion, the question whether there were Bye-laws in force regulating the period of

limitation is a question which needs to be inquired into and it cannot be decided by this court without first the arbitrators applying their minds to that question and recording a finding. Therefore, in our opinion, no fault can be found with the learned single Judge in remanding the proceeding back. It may be pointed out here that the finding recorded by the learned single Judge that the arbitration under the Bye-laws of the Stock Exchange is a statutory arbitration is now confirmed because of the judgment of the Division Bench of this court in the case of **Stock Exchange v/s. Vinay Bubna and ors, AIR 1999 Bombay 266**.

6. In the result, therefore, the Appeal fails and is dismissed.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

CHAMBER SUMMONS NO.885 OF 2007

IN

APPEAL NO.152 OF 1999

IN

ARBITRATION PETITION NO.83 OF 1997

...

M/s.Hiralal Lilladhar ...Appellant
(Orig.Respondent)

v/s.

Shri Shamsunder Z. Lahoti ...Respondent

And

Mr.Gokul Shyamsunder Lahoti
and ors. ...Respondents
(Orig.Petitioner)

...

Mr.Milind Wasudeo with Ms.Chaitra Rao i/b M & M Legal Venture for the Appellant.

Mr.S.S.Purohit i/b Purohit & Co. for the Respondent.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 25TH JULY, 2007

P.C.:

Leave to amend.

By consent of parties, Chamber Summons is granted in terms of prayer clause (a). Amendments to be carried out within two weeks from today.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

APPEAL NO.152 OF 1999

IN

ARBITRATION PETITION NO.83 OF 1997

...

M/s.Hiralal Lilladhar ...Appellant
(Orig.Respondent)

v/s.

Shri Shamsunder Z. Lahoti ...Respondent
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Mr.Milind Wasudeo with Ms.Chaitra Rao i/b M & M Legal Venture for the Appellant.

Mr.S.S.Purohit i/b Purohit & Co. for the Respondent.

...

CORAM: D.K.DESHMUKH &
J.H.BHATIA, JJ.

DATED: 25TH JULY, 2007

P.C.:

For the reasons disclosed in our judgment in Appeal No.151 of 1999, this Appeal is also disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)

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